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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/803,669	03/18/2004	Mehul Patel	1400-70 (1704)	5921
7590	10/05/2006		EXAMINER	
George Likourezos Carter, DeLuca, Farrell & Schmidt, LLP Suite 225 445 Broad Hollow Road Melville, NY 11747			NGUYEN, KIMBERLY D	
			ART UNIT	PAPER NUMBER
			2876	
			DATE MAILED: 10/05/2006	

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/803,669	PATEL ET AL.	
	Examiner	Art Unit	
	Kimberly D. Nguyen	2876	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) Responsive to communication(s) filed on _____.
 2a) This action is **FINAL**. 2b) This action is non-final.
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) Claim(s) 1-36 is/are pending in the application.
 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
 5) Claim(s) ____ is/are allowed.
 6) Claim(s) 23-31,33,34 and 36 is/are rejected.
 7) Claim(s) 32 and 35 is/are objected to.
 8) Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

9) The specification is objected to by the Examiner.
 10) The drawing(s) filed on ____ is/are: a) accepted or b) objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) Notice of References Cited (PTO-892)
 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
 3) Information Disclosure Statement(s) (PTO/SB/08)
 Paper No(s)/Mail Date 6/18/04,9/3/04.

4) Interview Summary (PTO-413)
 Paper No(s)/Mail Date. _____.
 5) Notice of Informal Patent Application
 6) Other: _____.

DETAILED ACTION

Specification

1. The abstract of the disclosure is objected to because on line 12, “one first electrical signal electrical signal” should be replaced with “one first electrical signal”. Correction is required. See MPEP § 608.01(b).

Drawings

2. The drawings are objected to because figure 2 is too dark causing the parts/elements not identifiable individually. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as “amended.” If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either “Replacement Sheet” or “New Sheet” pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 23-31, 33-34, and 36 are rejected under 35 U.S.C. 102(b) as being anticipated by Matsushima et al. (US 4,818,856; “Matsushima”).

Re claims 23, 26-27, 34, and 36: Matsushima teaches a method of scanning an optical code comprising the steps of:

sensing ambient light conditions and generating at least one first electrical signal corresponding to the sensing of the ambient light conditions (“...an image sensor for converting said ambient light image of said bar code into said electric signal...” col. 8, lines 22+; Abstract; col. 3, lines 36-47);

sensing light reflected from the target (bar code 2) being imaged and generating a plurality of second electrical signals (a peak value signal, continuous signal, binary signal) corresponding the sensing of the reflected light (col. 3, lines 23-35; col. 3, lines 6-60);

processing at least a portion of the at least one first electrical signal (“signal representing ambient light detected by detector 9 is amplified...” col. 3, lines 36-42); and

controlling at least one of exposure during the sensing of the reflected light, gain processing of at least a portion of the plurality of second electrical signals (i.e., the image sensor 8 is dynamically/continuously controlled/regulated so that the scanning operation is properly performed even if the intensity of the ambient light changes, so that the exposure time is changed

in accordance with the intensity of the ambient light detected by light detector 9), and illumination of the target in accordance with the processing (col. 3, lines 14-35; col. 4, lines 1-6; col. 3, lines 6-60).

Re claim 24: Matsushima further teaches the step of generating an image corresponding to the plurality of second electric signals; and decoding the image (col. 3, lines 23-60).

Re claims 25: Matsushima teaches wherein the sensing ambient light includes sampling the ambient light, and wherein a decodable image can not be generated from the at least one first electrical signal (col. 3, lines 36-47; col. 3, lines 17-22).

Re claim 28: Matsushima further teaches the step of decoding the plurality of second electronic signals (step 104 of fig. 4; col. 3, lines 28-35; col. 3, lines 55-60).

Re claims 29-31: Matsushima teaches wherein the controlling the gain processing step includes controlling a gain setting (col. 3, lines 6-23; col. 3, line 61 through col. 4, line 15).

Re claim 33: Matsushima teaches the step of passing light through one aperture (3a; col. 2, lines 58-63) for sensing the ambient light and the light reflected from the target being imaged.

Allowable Subject Matter

5. Claims 1-22 are allowed.
6. The following is an examiner's statement of reasons for allowance:

The prior art of record fails to teach or fairly suggest, among with other limitations, an optical scanner system for imaging a target having an ambient light sensor having at least one photo sensor for sensing ambient light conditions and generating at least one first electrical signal corresponding to the sensing of the ambient light conditions; and a processing circuitry for processing at least a portion of the at least one first electrical signal and controlling at least one

of the exposure circuitry, the gain circuitry and the illumination assembly in accordance with the processing of the at least a portion of the at least one first electrical signal as set forth in independent claim 1.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

7. Claims 32 and 35 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

8. The following is a statement of reasons for the indication of allowable subject matter:

The prior art of record fails to specifically teach the steps of passing light through a first aperture for sensing the ambient light; and passing light through a second aperture for sensing the light reflected from the target being imaged as set forth in claim 32; or wherein the disabling includes at least one of physically blocking light from being sensed by a photo sensor, electronically blocking generation of electrical signals by a photo sensor, disabling transfer of electrical signals generated by a photo sensor, and disabling processing of electrical signals generated by the disabled photo sensor, wherein the processing includes at least one of digitizing, image processing and decoding.

Conclusion

Examiner's note: Examiner has cited particular columns and line numbers in the references as applied to the claims above for the convenience of the applicant. Although the specified citations are representative of the teachings of the art and are applied to the specific limitations within the individual claim, other passages and figures may apply as well. It is

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respectfully requested from the applicant in preparing responses, to fully consider the references in entirety as potentially teaching all or part of the claimed invention, as well as the context of the passage as taught by the prior art or disclosed by the examiner.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kimberly D. Nguyen whose telephone number is 571-272-2402. The examiner can normally be reached on Monday-Friday 7:30-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael G. Lee can be reached on 571-272-2398. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

September 28, 2006



KIMBERLY D. NGUYEN
PRIMARY EXAMINER